

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6882 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
VIJAYA BANK LTD

Versus

REGIONAL PASSPORT OFFICER & ANR.

-----  
Appearance:

MR GR UDHWANI for Petitioner

MR JD AJMERA for Respondent No. 1

None present for Respondent No. 2

-----  
CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/09/96

ORAL JUDGMENT

The matter was called out for hearing, but nobody is present on behalf of respondent No.2. Heard learned counsel for the parties present. Perused the Special Civil Application.

2. The petitioner, Vijaya Bank Ltd., filed this

Special Civil Application before this Court and prayer has been made therein that the respondent No.1 be directed not to renew the passport No.S-726086 of the respondent No.2 and to refuse the renewal of passport of respondent No.2. The aforesaid passport expired on 31st December 1985. This Court, on 27th October 1985, directed the respondent No.1 not to renew and/or issue fresh passport in favour of respondent No.2 without permission of this Court. The respondent No.2, however, has been given liberty by this Court to move this Court whenever occasion to get the passport renewed and/or issue arises. I do not find anything on record that at any stage after 27th December 1985, the respondent No.2 moved this Court to get passport renewed and/or issued. The respondent No.1 has also not brought on record the fact that at any stage, after 27th December 1985, the respondent No.2 has approached to it with the application for renewal of passport or for grant of fresh passport.

3. It is the case of petitioner in this Special Civil Application that it has filed a Criminal Case No.17 of 1984, in the Court of Metropolitan Magistrate Court No.16 at Ahmedabad against the respondent No.2 for offences under Section 420, 417, 120-B, 34 and/or 109 of the Indian Penal Code. The Metropolitan Magistrate in the aforesaid criminal case issued process against the respondent No.2. There are serious allegations against the respondent No.2 in the aforesaid criminal complaint of cheating the petitioner-Bank to a huge amount of Rs.10 lacs, which including interest, comes to about Rs.16 lacs. The petitioner has also filed civil suit being Summary Suit No.3823 of 1983 in the Court of Civil Judge, Ahmedabad, against respondent No.2 for recovering the amount aforesaid. In the said Civil Suit, the learned Judge has issued summons for appearance and ha

to the respondent No.2, unconditional leave to defend. The order of the Civil Judge to grant unconditional leave to the respondent No.2 has been challenged by the petitioner by filing a Revision Application under Section 115 of the Code of Civil Procedure, before this Court. The petitioner, in para-5 of the Special Civil Application, has given out that the respondent No.2, is owing a very huge amount towards other Banks and private parties, the details of which are as under:

-----  
Name of creditor of respondent No.2 Amt. of Debt.

=====

1. The petitioner Bank about Rs.16.0 lacs

2. Navdeep Co-op. Bank Ltd., A'bad. about Rs.30.0 lacs
3. Bharat Overseas Bank Ltd., A'bad. about Rs.06.0 lacs
4. Indian Overseas Bank, Anand about Rs.02.5 lacs
5. Syndicate Bank, Ahmedabad about Rs.02.5 lacs
6. Bank of Baroda, Ahmedabad about Rs.02.5 lacs

---

TOTAL                Rs.59.0 lacs

=====

-----

4. In these circumstances, the petitioner has approached to this Court by filing this Special Civil Application to see that the respondent No.2 may not run away from the jurisdiction of the Criminal Court as well as the Civil Court, wherein criminal complaint and civil suit for recovery of amount are pending against him. It is not the case of respondents that the criminal complaint has come to an end and the civil suit has also been decided against the petitioner. Shri J.D. Ajmera, learned counsel for the respondent No.1 contended that in case a citizen makes an application before the authority concerned for renewal and/or for grant of passport, the authority has to make an order. Every citizen, Shri J.D. Ajmera contended, has right to take passport and no injunction should be issued against the respondent No.1 restraining it from issuing the passport, in the present case, to respondent No.2, otherwise it may effect the fundamental right.

5. I have given my thoughtful considerations to the submissions made by the learned counsel for the parties. It is undisputed fact that there are serious allegations against the respondent No.2 which are pending for adjudication in Criminal Court, of cheating the petitioner-Bank, and the amount involved by now would have reached to Rs.50 lacs. A suit is also pending against respondent No.2 filed by the petitioner-Bank for recovery of the said amount. Not only this, the respondent No.2 has also taken loans from other Banks/institutions and he has not filed any reply to this Special Civil Application, and as such, the averments made in this petition stand uncontroverted. The matter is sub-judice before respective Courts and I do not consider it to be appropriate to give any finding on the merits of the case, but the facts which have been brought on record are not controverted by respondent No.2, and there is nothing on record from his side denying the same

and to show that the amount has been paid by him.

6. In these facts and circumstances, I consider it to be appropriate and in larger interest that the respondent No.1 shall not renew and/or issue a fresh passport in favour of respondent No.2 without permission of this Court. Liberty is also given to respondent No.2 to move this Court whenever occasion to get the passport renewed and/or issue the passport arises, as the passport of respondent No.2 was valid only upto 31st December 1985.

7. In the result, this Special Civil Application succeeds and the prayer as made by the petitioner in para-6(A) of this Special Civil Application is allowed, subject to directions given above. Rule made absolute. No order as to costs.

.....

(sunil)